

Assembly Bill No. 1563

Passed the Assembly September 8, 2009

Chief Clerk of the Assembly

Passed the Senate September 1, 2009

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Section 2825 to the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1563, Committee on Labor and Employment. Employment: contracts or agreements for labor or services.

Existing law prohibits a person or entity from entering into a contract or agreement for labor or services with a construction, farm labor, garment, janitorial, or security guard contractor where the person or entity knows or should know that the contract or agreement does not include funds sufficient to allow the contractor to comply with all applicable local, state, and federal laws or regulations governing the labor or services to be provided. The Division of Labor Standards Enforcement, within the Department of Industrial Relations, is charged with the responsibility of enforcing minimum labor standards under state law. The division's Bureau of Field Enforcement is responsible for investigating and enforcing statutes relating to the above targeted areas. The Economic and Employment Enforcement Coalition, composed of the division and other state and federal agencies, combines and coordinates investigative and enforcement efforts of the various agencies targeting the underground economy.

This bill would provide that in an investigation by the Economic and Employment Enforcement Coalition or the Bureau of Field Enforcement involving a labor contractor employing 15 or more workers in any of these 5 targeted areas, if the Division of Labor Standards Enforcement has a reasonable suspicion that a violation of potential financial significance, as defined, has been committed or cited by the division, the division must obtain the relevant terms of the contract from the contractor and make a written record thereof, as well as a record of whether there is a likelihood that the applicable contract violates those provisions requiring adequate funding. The bill also would require the division to make a record of its reasons supporting its decision to either file or not file a legal action.

The people of the State of California do enact as follows:

SECTION 1. Section 2825 is added to the Labor Code, to read:

2825. (a) In any investigation by the Economic and Employment Enforcement Coalition or the Bureau of Field Enforcement involving a labor contractor employing 15 or more workers in the fields of construction, farm labor, garment, janitorial, or security guard service, if the Division of Labor Standards Enforcement has a reasonable suspicion that violations of potential financial significance have been committed or if such violations have been cited by the division and have not been set aside by the division within 15 days of their issuance, the division shall do the following:

(1) Issue an administrative subpoena for the relevant portions for any written contract covering the work performed by the contractor.

(2) If there is no written contract, obtain from the contractor the relevant terms of any oral contract and make a written record of the information provided by the contractor.

(3) Record whether the terms of an applicable contract appear to violate the provisions of Section 2810 and, if so, whether the division filed a legal action pursuant to that section. If no legal action was filed, this record shall explain the reasons why the division chose not to do so.

(b) For purposes of this section, a violation of “financial significance” includes, but is not limited to, the following violations, which are within the jurisdiction of the Division of Labor Standards Enforcement:

(1) Failure to have a worker’s compensation insurance policy covering all employees.

(2) Multiple minimum wage violations over a period of one or more months.

(3) Multiple serious overtime violations over a period of one or more months.

(c) The Division of Labor Standards Enforcement shall make a record, including a brief analysis and explanation of reasons, in each instance that provisions of Section 2810 were likely violated but the division determined that implementation of this section was not feasible or practicable.

Approved _____, 2009

Governor